

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA
PITTSBURGH

JASON COLE,

Plaintiff,

vs.

RICK ENCAPERA, TERRY CHILDS,
JUSTIN SHULTZ, CALIFORNIA
BOROUGH, CASEY DURDINES,

Defendants,

2:15-CV-00104-CRE

MEMORANDUM ORDER

Plaintiff's memoranda in opposition to Defendants' motions for summary judgment [ECF Nos. 140 and 142] fail to cite to any evidence of record contained in his responsive concise statement of material facts or appendix and the memoranda are hereby STRICKEN from the record. To the extent that Plaintiff includes any cite to the record, he does so by including general citations such as "*See photos. See Declarations.*" Pl.'s Memo. in Op. to Defs.' Mot. for Summ. J. [ECF No. 140] at 16. Moreover, as pointed out by Defendant Shultz in his reply, Plaintiff's memorandum in opposition to Defendant Shultz's motion for summary judgment fails to include any citation to any material of record. Plaintiff's failure to cite to the record and inclusion of such general citations are not properly cited materials for purposes of Federal Rule of Civil Procedure 56(c)(3). *See also* LCvR 56. The court cautions Plaintiff that district courts "are not required to search through the record for evidence to support a party's assertion of the existence of a genuine issue of material fact." *McCann v. Kennedy University Hosp., Inc.*, 596 Fed.Appx. 140, 145–46 (3d Cir. 2014) (citing *American Family Life Assur. Co. of Columbus v. Biles*, 714 F.3d 887, 896 (5th Cir. 2013) ("Rule 56 does not impose upon the district court a duty

to sift through the record in search of evidence to support a party's opposition to summary judgment.”)).

Plaintiff shall submit amended memoranda in opposition to Defendants’ motions for summary judgment by **June 9, 2017 at 5:00 p.m.** in which all factual averments made in the memoranda are supported by citations to evidence of record contained in his forthcoming responsive concise statement of material facts and appendix. *See* Order of 6/2/2017 [ECF No. 169]. Plaintiff shall make no substantive changes to his memoranda. Plaintiff’s failure to support any factual averment by citation to the materials in the record will result in the court disregarding the asserted factual averment and consider Defendants’ facts as undisputed. *See* Fed. R. Civ. P. 56(e). Moreover, failure to submit amended memoranda in the provided time will result in the court considering Defendants’ motions for summary judgment as unopposed. No extensions of time will be permitted.

So ordered.

DATED this 7th day of June, 2017.

BY THE COURT:

s/Cynthia Reed Eddy
United States Magistrate Judge